

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 259

## **HOUSE BILL 2471**

AN ACT

AMENDING SECTIONS 8-291.02 AND 13-4505, ARIZONA REVISED STATUTES; RELATING TO  
COMPETENCY PROCEEDINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-291.02, Arizona Revised Statutes, is amended to  
3 read:

4 8-291.02. Expert appointment; costs; immunity

5 A. If the court determines that grounds exist for a competency  
6 examination, the court shall appoint two or more mental health experts, ~~at~~  
7 ~~least one of whom is a psychiatrist licensed pursuant to title 32, chapter 13~~  
8 ~~or 17.~~ The mental health experts shall examine the juvenile, issue a report  
9 and, if necessary, testify regarding the juvenile's competency. THE COURT,  
10 ON ITS OWN MOTION OR UPON MOTION OF ANY PARTY, MAY ORDER THAT ONE OF THE  
11 MENTAL HEALTH EXPERTS APPOINTED SHALL BE A PHYSICIAN SPECIALIZING IN  
12 PSYCHIATRY AND LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17. The state  
13 and the juvenile, UPON APPROVAL OF THE COURT, may stipulate to the  
14 appointment of only one expert.

15 B. The court may order the juvenile to submit to any physical,  
16 neurological or psychological examination, if necessary, to adequately  
17 determine the juvenile's mental condition.

18 C. The county shall pay the costs of any examination that is ordered  
19 pursuant to subsection B, except that if a municipal court judge refers a  
20 case, the political subdivision shall pay the costs of the examination.

21 D. This section does not prohibit any party from retaining the party's  
22 own expert to conduct additional examinations at the party's own expense.

23 E. A person who is appointed as a mental health expert or a clinical  
24 liaison is immune from liability for acts or omissions pursuant to this  
25 section, except that the mental health expert or clinical liaison may be  
26 liable for intentional, wanton or grossly negligent acts that are done in the  
27 performance of the expert's or liaison's duties.

28 Sec. 2. Section 13-4505, Arizona Revised Statutes, is amended to read:

29 13-4505. Appointment of experts; costs

30 A. If the court determines pursuant to section 13-4503 that reasonable  
31 grounds exist for a competency examination, the court shall appoint two or  
32 more mental health experts, ~~at least one of whom shall be a physician~~  
33 ~~specializing in psychiatry licensed pursuant to title 32, chapter 13 or 17,~~  
34 to examine the defendant, issue a report and, if necessary, testify regarding  
35 the defendant's competency. THE COURT, ON ITS OWN MOTION OR UPON MOTION OF  
36 ANY PARTY, MAY ORDER THAT ONE OF THE MENTAL HEALTH EXPERTS APPOINTED SHALL BE  
37 A PHYSICIAN SPECIALIZING IN PSYCHIATRY AND LICENSED PURSUANT TO TITLE 32,  
38 CHAPTER 13 OR 17. The state and the defendant, UPON APPROVAL OF THE COURT,  
39 may stipulate to the appointment of only one expert.

40 B. The court may order the defendant to submit to physical,  
41 neurological or psychological examinations, if necessary, to adequately  
42 determine the defendant's mental condition.

1       C. The court shall order the defendant to pay the costs of the court  
2 ordered examination, except that if the court finds the defendant is indigent  
3 or otherwise unable to pay all or any part of the costs or if the prosecution  
4 requested the examination, the court shall order the county to pay the costs  
5 of the examination or, if the case is referred by a municipal court judge,  
6 the court shall order the city to pay the costs of the examination.

7       D. This section does not prohibit any party from retaining its own  
8 expert to conduct any additional examinations at its own expense.

9       E. A person who is appointed as a mental health expert or clinical  
10 liaison is entitled to immunity, except that the mental health expert or  
11 clinical liaison may be liable for intentional, wanton or grossly negligent  
12 acts that are done in the performance of the expert's or liaison's duties.

APPROVED BY THE GOVERNOR MAY 7, 2010.

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